HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)
Description of the case.

WPSS No. 221/2006

Km. Dinu Bhandari

Vs

State of Uttaranchal

Director of Uttaranchal Education

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 25.2.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Writ Petition No. 221 of 2006(S/S)

Km. Dinu Bhandari, D/o Sri Harsh Singh, R/o Village Giwaiepani Gram Sabha Mangrukhal, District Almora

..... Petitioner.

Versus

1. State of Uttaranchal through Director of Education(Basic) Govt. of Uttaranchal at Dehradun.
2. Upper Zila Shiksha Adhikari (Basic) District Almora.
3. Block Education Officer, Development Block.

....Respondents.

Sri B.D. Upadhyay, learned counsel for the petitioner.
Learned Standing counsel for respondents.

HON'BLE RAJESH TANDON.J.

25.02.2006

Heard Sri B.D. Upadhyay, learned counsel for the petitioner and learned Standing counsel for the respondents. Both the parties have submitted that the petition may be disposed of at the admission stage.

The petitioner has prayed for a writ of mandamus commanding the respondents to consider the candidature of the petitioner for the post of Shiksha Mitra in the Primary School Giwaiapani, Gram, Panchayat Mangrukhal, Development Block Syelday,

district Almora. The challenge of the petitioner is that in view of condition no. 3 framed on 16-1-2004 for the appointment of the Shiksha Mitra to the effect that in case the candidates are not available in the Gram Sabha, the candidate from Vikas Khand may also be considered, will cause prejudice to the petitioner in consideration of his appointment. The petitioner has submitted that she is a resident of Gram Sabha Mangrukhal Development Block Syelday, district Almora and is an unemployed youth of the village. The Government Order dated 16-1-2004 is quoted below:-

"1. ि ाक्षा मित्र की व्यवस्था भाासनादे ा संख्या 472/मा0स0वि0/9.1.89. 2000/दि0 27.1.2001 संख्या 134/मा0स0वि0/2001 दि0 21.4.2001 संख्या 17/वे0ि ा0/2..4 दि0 16.1.2004 तथा संख्या 230/33–1 1/2005–15–2004 दिनांक 19/4/2005 एवं निदे ाालय के पत्राक वे0/13918–19/2005–06/दिनांक 16–7–2005 एवं पत्र संख्या बेसिक/14648/73/2005–06/दिनांक 20.7.2005 में निहित प्राविधानों के अन्तर्गत की जायेगी।"

The grievance of the petitioner that respondents no. 2 and 3 have recommended the name of Sri Dwrika Prasad who is resident of village Lalnagri Gram Panchayat Deghat. In view of the condition laid down in the advertisement a person who is permanent resident of another Gram Panchayat can not be

appointed in Primary School situated in another Gram Panchayat.

However the petitioner apprehends that in view of clause 9 of the advertisement dated 17-8-2005, the petitioner shall not be considered for appointment. It reads as under:-

"7, ि ाक्षा मित्रों का चयन ग्राम सभा अथवा ग्राम पंचायत की सीमा के अन्दर ही किया जायेगा। ग्राम सभा/ग्राम पंचायत में प्रि ाक्षित अभ्यर्थी न मिलने पर विकास खण्ड के उपयुक्त अभ्यर्थी से, विकास खण्ड के अन्तर्गत प्रि ाक्षित अभ्यर्थी उपलब्ध न होने की द ा में ग्राम पंचायत में उपलब्ध स्नातक अभ्यर्थी से तथा यदि ग्राम पंचायत में स्नातक अभ्यर्थी भी उपलब्ध न हो तो विकासखण्ड स्तर पर उपलब्ध अभ्यर्थी (जिन्होने आवेदन किया है) से व्यवस्था की जायेगी।"

Heard the standing counsel for the State. Standing counsel has submitted that when there is a clear provision that the candidates from the Gram Sabha shall be considered therefore, clause 9 with regard to out side the Gram Sabha is only the optional in case trained graduates are not available. So far as training part is concerned the same is also provided in rule 12. The same is quoted below:

"12 जिस विद्यालयों में ि ाक्षा मित्र की आव यकता हो , उस विद्यालय की ि ाक्षा समिति द्वारा विकास खण्ड स्तर पर – अभ्यर्थियो में से अपने विघालय के लिये ि ाक्षा मित्रों को आमंत्रित कर एक माह का प्रि ाक्षण , जिसकी व्यवस्था

जिला िक्षा एवं प्रि िक्षण संस्थान द्वारा की जायेगी 10 माह के लिये रू0 3430/– प्रतिमाह मानदेय पर कार्य लिया जायेगा।"

The apprehension of the petitioner therefore, is not well founded. The petitioner shall be considered along with other candidates for the appointment of Shiksha Mitra.

In view of aforesaid, the respondents are directed to consider the candidature of the petitioner in accordance with the Rules framed for the appointment of Shiksha Mitra after taking into consideration the Government Order dated 16.01.2004.

Subject to aforesaid observations, writ petition is disposed of. No order as to costs.

(Rajesh Tondon. J)

25.02.2006
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